IN THE HIGH COURT OF UTTARTANCHAL

Criminal Misc. Application No. 609 of 2005

Raghuvar Dutt Upreti
S/o Bhawani Dutt Upretti
R/o village Bharchana
PO Champawat
District Champawat
applicant.

Versus

1. The Judicial Magistrate, Ist class
   District Champwat
2. Narayan Dutt Garkoti,
   S/oRamDutt Garkoti
   R/o Bazar, Lohaghat,
   District Champwatt

Opposite party.

Hon'ble B.C. Kandpal, J

The petition has been field under Section 482 Cr.P.C. for quashing the criminal complaint under section 406 and 420 IPC in Criminal case No. 110 of 2001 pending in the court of Judicial Magistrate Ist class ,District Champawat.

In brief the facts giving rise to this petition are that a complaint was lodged against the applicant under Section 156 (3) Cr.P.C. by the opposite party No.2.

The matter was investigated by the Police and a charge sheet was submitted against the accused/ applicant.

As the applicant was absconding , therefore an application was moved under Section 82/83 of Cr.P.C. by the Investigating Authority before the Judicial Magistrate .The learned Judicial Magistrate allowed that application vide order dated 2.8.2005.

Feeling aggrieved by the aforesaid order this petition has been preferred before this court.

Heard Sh. Prabhakar Joshi , learned counsel for the petitioner and perused the record.

Heard Sh. Prabhakar Joshi , learned counsel for the petitioner and perused the record.

The contention raised by the learned counsel for the petitioner relates to the factual aspects of the matter and can be dealt with by the trial court itself. This court is not supposed to assume the role of trial court and embark upon the inquiry as to the reliability of the evidence and sustainability of accusation. On reasonable appreciation of said evidence and consideration of the allegations made in the complaint, it appears to me that the ingredients of the offence are disclosed and there is no material to show that the complaint is malafide ,frivolous or vexatious and hence the proceedings pending before the court below cannot be quashed.

I do not find any flagrant injustice or abuse of the process of court in this case.

Accordingly the application under Section 482 Cr.P.C is dismissed.

(B.C. Kandpal, J.)

14.09.2005
NBJ